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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Modern Advocacy, Humanitarian, Social and Rehabilitation Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Evil in Impunity and Judicial Corruption that Destroys Human Rights Values and State Responsibility

Introduction

As the world strives to equate positions, opinions and values of all through the Sustainable Development Goals for a comfortable place for both the weak and strong, the meek and assertive and the poor and rich, evil ideological and circumstantial opponents keep manoeuvring every illustrious opportunity towards dismay and destruction. One of the most horrible thoughts to engender the human mind in modern times is "what if they were no Human Rights" yet only the meek, the weak and the poor seem to have value for this. Instinctively, humanity seems sick when measured in terms of the strong, the assertive and the rich bestowed with power and responsibility to uphold values that mean very little to them. The Declaration on the Rights to Development1 is categorical on national duties to formulate development policies that aim at the constant improvement of the well-being of the entire population and of all individuals through active, free and meaningful participation in development and in the fair distribution of the outcome benefits. However, across countless other conventions and resolutions to improve on value and respect for such well-being rights of all human persons especially the most vulnerable, States and their representatives borne with such responsibility have paradoxically increased the burden. From major instances of capital corruption down to roadside bribery and from severe war crimes and torture down to judicial manoeuvring exploits for widow's mites, under impunity, we continue to perceive how persons in power manipulate the rule of law for personal gains meanwhile inflicting untold suffering to the vulnerable masses, that is how bad the predicament seems, what a shame!

Corporate Responsibility and Zero Tolerance on Human Rights Violations

All human rights are universal, indivisible, interdependent therefore must be treated in a fair and equal manner, on the same footing and with the same emphasis as well as the general obligation to respect, promote and protect all human rights and fundamental freedoms at the national and international level and conducted without conditions attached, with primary responsibility on States to protect against all violations or abuses within their territory and/or jurisdiction by third parties, including transnational corporations (A/HRC/RES/26/9).

Notably, the current process of institutionalizing an international binding agreement over transnational corporations is to put an end to impunity in cases of violations or abuses occurring in their activities. The capitalistic income seeking incentives of transnational or other highly performing corporations are not without great risks on human rights consolidation. Corruption worsens the risks factor wherein justice seeking options are hacked through delays and court inadmissibility manoeuvres. In worse stances, poverty and psychological ignorance over mutual socioeconomic benefits pave the way for outright exploitation on vulnerable populations and persons. For example:

a) Vulnerable community persons lacking knowledge and/or means are continuously exploited by greedy capitalistic companies and neglected or discriminated upon by corrupt community social support services. This is proven in a particular case wherein a multi-national telecom company ORANGE represented in Cameroun shamelessly and outrightly exploits a gathering of hundreds of rural widows and orphaned children without any material or financial compensation (E/CN.6/2018/NGO/2). Outrageously, the very transnational corporation fails to respond to their act and continue with business as usual in total impunity because of very insensitive and less influential local government social protection services that are incapable or lack the will to investigate and impose firm sanctions.

b) Most shockingly, because of the economic power of transnational corporations and their inter-active liaison relationship with high ranking executive and judiciary personalities, they often undermine the rights-based activism prowess of civil society organizations and blatantly utilize them and then damage their moral integrity without remorse or regrets (E/CN.5/2018/NGO/2).

Judicial Corruption an Intolerable Abuse on Human Rights

1 Declaration on the Right to Development, GA resolution 41/128 adopted on 4 December 1986

The oddments of corruption, no matter how lofty or lowly it is carried out, is an institutionalized destruction of human co-existential values thereby a denial of the very existence or usefulness of the Human Rights. Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.2

The Universal Declaration of Human Rights sets forth in its introductory statement for the recognition of the inherent dignity, equality and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world whereas the highest aspiration of the common man lays in his freedom of speech, belief and from fear which as human rights should be protected by the rule of law.3 The independence of the judiciary strengthens the perseveration of the dignity of the office of judges and the impartiality of their decisions which in the highest esteem is to safeguard the values of human rights thereby fostering justice and peace in the world. However, the evil of corruption has also plagued this judicial institution in a number of ways which is very detrimental in protecting vulnerable classes of the society.

- Judicial corruption extends from pretrial investigations and procedures through the trial proceedings and settlement, to the enforcement of decisions by court bailiffs or the executive.4 Through her confined assessment to judicial corruption involving judges, prosecutors and members of the legal profession, the Special Rapporteur recognized that corruption among the police, court personnel and officials in charge of enforcing judicial decisions is an issue of utmost importance (A/67/305).

- Typically, Favouritism is a chronic form of judicial corruption that needs firm redress. Considerably, favoring a particular law firm, close association with lawyers, the promise of opportunities after retirement from either government sources or public corporations, or consultancy work from law firms are the most insidious forms of corruption, and may be more difficult to prevent and detect (A/67/305, para. 23). For example, in a High Court suit no. HCMB/08/17 of Mezam in Bamenda - Cameroon, the presiding judge is assessed to have taken sides with a prosecuting law firm in order to deprive a poor widow from her late husband's estate by outrightly refusing to examine exonerating evidence that would have lead to a contrary pre-planned court ruling. Appallingly, during the hearing process the victimized widow was heartlessly subjected to cruel treatment and torture that highly degraded her personal integrity and her physical and mental health.

- Other forms of judicial corruption such as bribery can occur at every point of interaction in the judicial system: court officials may extort money for work they should do anyway; lawyers may charge additional "fees" to expedite or delay cases or to direct clients to judges known to take bribes for favorable decisions.5 In other cases, judges themselves can accept bribes to delay or accelerate cases or accept or deny appeals; they can actively seek to influence other judges or simply decide a case in a way that is not in accordance with established legislation and rules (A/67/305).

- Also where corruption raises the cost for judicial services, which keeps on rising through competition, making it impossible for some to afford litigation, the corrupted legal process punishes the poor and violates human rights.

Eradicating the Evil of Corporate Impunity and Judicial Corruption on Human Rights

With respect to transnational corporations there is great need to put an end to impunity by invoking States' obligations to promote and protect all human rights against violations or abuses within their territory and/or jurisdiction by third parties and guarantee access to justice and to effective remedies to every person and especially vulnerable peoples. State Parties including legislative, executive and judiciary should adopt adequate measures to ensure that any violation or abuse of human rights, irrespective of who may ultimately be the bearer of responsibility for the violation, gives rise to legal actions and opens the way for victims' claims for damages and remediation (A/HRC/RES/26/9).

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2 United Nations Office on Drugs and Crime, Foreword, by the Secretary-General to the United Nations Convention against Corruption, 2004

3 The Preamble of the 10th December 1948 Universal Declaration of Human Rights

4 Transparency International, *Global Corruption Report 2007: Corruption in Judicial Systems*

5 Ibid

Reflecting judicial corruption, it is important to note that it erodes the principles of independence, impartiality and integrity of the judiciary; infringes on the right to a fair trial; creates obstacles to the effective and efficient administration of justice; and undermines the credibility of the State's entire justice system. Accordingly, States should criminalize and penalize corruption (see General Assembly resolution 58/4, article 15), and any existing criminal immunity of corrupt judges and prosecutors should be lifted; they should not be "above the law", as total immunity would only nourish distrust among the public with regard to judges and prosecutors in the justice system (A/67/305).

Justice must not merely be done but must also be seen to be done

Stand up for Human Rights!